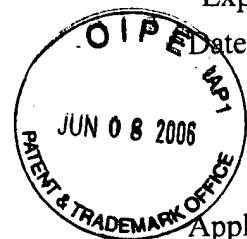


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PATENT  
2100/24

Date of Deposit

June 8, 2006



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appl No. : 10/090,685  
Applicant(s) : Alfred THOMAS,  
: Duncan F. BROWN,  
: Lawrence E. DeMar, and  
: Scott D. SLOMIANY  
Filed : March 5, 2002  
TC/A.U. : 3711  
Examiner : Vishu K. Mendiratta  
Docket No. : 2100/24  
Title : SPIN KENO

Confirmation No. 8496

**APPEAL BRIEF IN COMPLIANCE WITH 37 CFR §41.37**

Mail Stop: Appeal Brief-Patents  
Commissioner for Patents  
Washington, D.C. 20231

Applicants appeal from the August 1, 2005 Final Rejection entered in the above-captioned application.

**(I.) REAL PARTY IN INTEREST**

The real party in interest for the present application is Case Venture Management, LLC, as shown in the assignment recorded in the United States Patent and Trademark Office ("USPTO") on March 5, 2002, at Reel 012675, Frame 0433.

**(II.) RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

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### **(III.) STATUS OF CLAIMS**

The original application contained claims 1-52. Claims 1-24 and 49 were withdrawn in response to an election requirement. At this time, claims 25-48 and 50-52 are pending and all stand rejected. Applicants appeal the rejection of claims 25-48 and 50-52.

### **(IV.) STATUS OF AMENDMENTS**

Applicants filed a Notice of Appeal with a Pre-Appeal Brief Request for Review subsequent to the final rejection. Applicants received a Notice of Panel Decision from Pre-Appeal Brief Review on March 8, 2006 to proceed to the Board of Patent Appeals and Interferences.

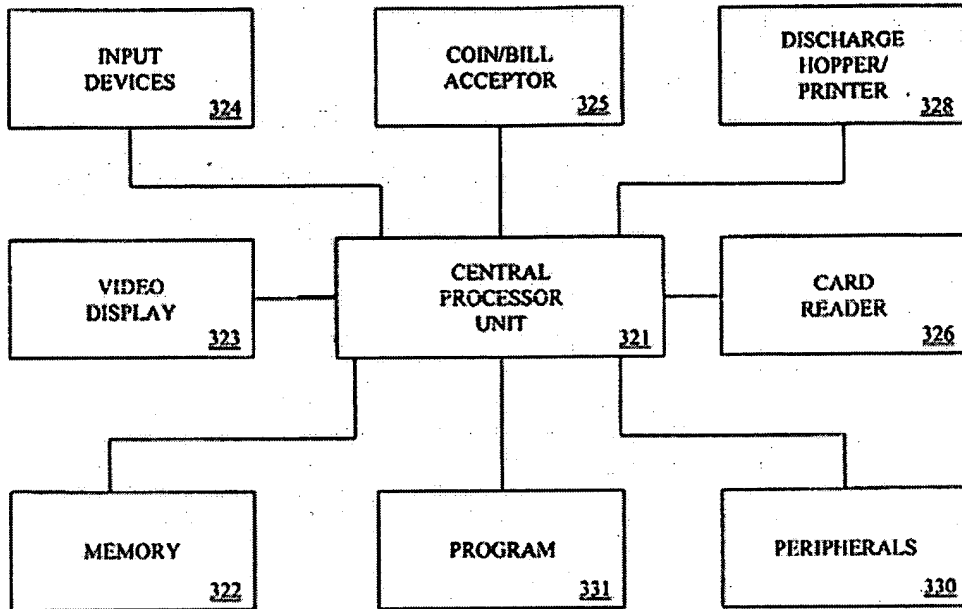
### **(V.) SUMMARY OF CLAIMED SUBJECT MATTER**

The present invention is directed to an apparatus and method for playing a game of chance, and more particularly, for playing a new Keno-style wagering game. Applicants' claims introduce a variation of a Keno game with an abundance of locations (spots, reels, etc.), where a player can select which locations will be used for a gameplay condition to ultimately determine an outcome. (pg. 3, lns. 14-17; pg. 4, lns. 20-23). At the outset -- and this is an important distinction -- the player selects *multiple* locations for a gameplay condition. After the player selects the locations (or reels), the locations are played (*e.g.*, the reels are spun) to reveal the randomly selected game element indicia for the respective location. (pg. 5, lns. 9-16).

#### **(A.) Independent Claims**

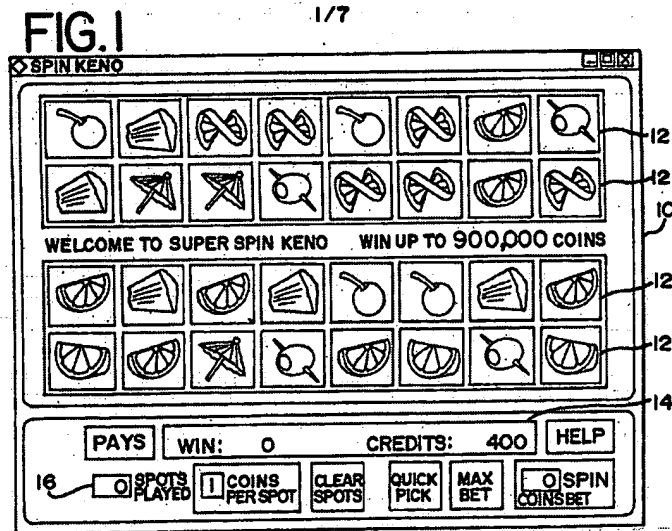
The gaming machine/apparatus of independent claims 25, 29, 39, 47 and 50 includes a game display with a plurality of game element locations. (pg. 4, lns. 20-21). The apparatus includes an operating system with a processor for running a game program with at least one payout table, a random number generating subroutine and a memory. (pg. 7, lns. 3-8). The major components of the operating system are shown schematically in Figure 11.

**FIGURE 11**

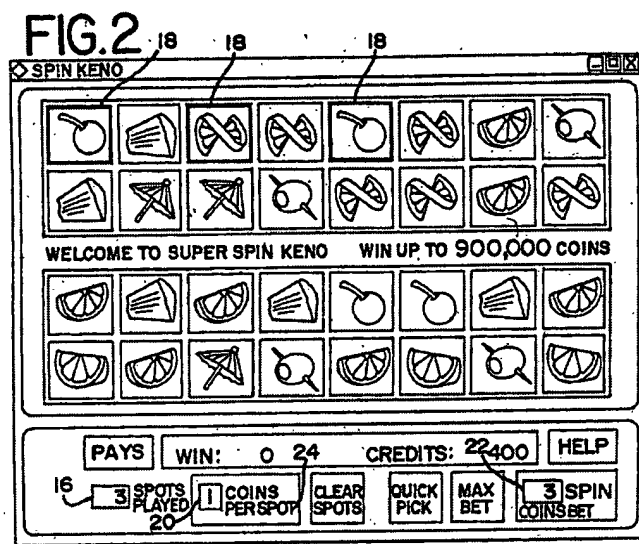


An input device (mouse, touch screen, buttons, etc.) registers a player's control input to the apparatus. (pg. 7, lns. 9-10). A wagering input device registers a player's wager upon an outcome of the game (pg. 7, lns. 11-12, 18-19), and a payout device that determines a payout, if any, according to a winning condition as established by a payout table. (pg. 7, lns. 12-13, 23-26).

The display presents a plurality of individual game element locations. (pg. 8, lns. 27-28).



The player selects game element locations for gameplay, limited to less than all of game element locations. (pg. 9, lns. 13-28). The highlighted ring (18) denotes game element locations selected by the player. Each game element location randomly displays one indicia from a set of indicium after the player selects the game element location to be played. (pg. 4, lns. 24-27). Thus, random assignment of indicia is selected from all indicium of the same set such that there may be multiples of the same indicia. (pg. 5, lns. 9-16; pg. 7, lns. 21-22).



The outcome, or winning condition, of the game is determined and results in a payout based on a payout table (pg. 7, lns. 25-26).

The independent claims differ in that claim 25 is a game playing apparatus and claims 29, 39, 47 and 50 are gaming machines, more particularly, claim 39 is a video gaming machine and claim 47 is a slot-type gaming machine with spinning reels.

#### **(B.) Dependent Claims**

Claims 26-28 depend from independent claim 25. Claims 30-38 depend from independent claim 29. Claims 40-46 depend from independent claim 39. Claim 48 depends from independent claim 47 and claims 51-52 depend from independent claim 50.

**(VI.) GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

1) Whether the invention as claimed in claims 25-48 and 50-52 was improperly rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,702,671 to Tarantino (“Tarantino”).

2) Whether the invention as claimed in claims 25-48 and 50-52 was improperly rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,401,024 to Simunek (“Simunek”).

3) Whether the invention as claimed in claims 25-48 and 50-52 was improperly rejected under 35 U.S.C. §103(a) as being obvious by Simunek in view of Tarantino (a) for the same reasons it was improper to reject claims based on Tarantino alone or Simunek alone and (b) because there is simply no motivation or suggestion to combine the two references as the Examiner has done.

**(VII.) ARGUMENT**

This application was filed on March 5, 2002. After three Office Actions, including a Final Office Action, upon which the Examiner relied on references Walker<sup>1</sup> and Feola<sup>2</sup>, Applicants requested an interview with the Examiner on November 1, 2004. The Examiner denied Applicants’ request for an interview on November 5, 2004 on belief that the intent was to amend the Claims or reiterate arguments and suggested the Applicants’ appeal. Applicants filed an RCE on December 2, 2004. In response, the Examiner cited Tarantino and Simunek, eliminating reliance on Walker and Feola, in two more Office Actions. The Applicants filed a Notice of Appeal.

**(A.) Claims 25, 29, 39, 47 And 50 Should Be Allowed Because The Examiner’s Rejection Based Upon Anticipation By Tarantino Is Erroneous By Failing To Provide All Of The Patentably Distinguishing Features Of The Invention**

The Examiner rejected Claims 25-48 and 50-52 under 35 U.S.C. §102(e) as being anticipated by Tarantino. Anticipation can only be established if each and every limitation of a Claim is identically set forth and taught in a single prior art reference. See, *e.g.*, *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990). In addition, every element of the claimed invention must be

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<sup>1</sup> U.S. Patent No. 6,174,235

<sup>2</sup> U.S. Patent No. 6,149,156

literally present, arranged as in the claim, in order for a reference to anticipate. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

**(1.) Tarantino does not disclose a “wagering input” and a “selection input”**

Applicants’ invention provides in part, a “wagering input device” to register a wager independent from “registering a selection input” to select game element locations for gameplay. Applicants’ claims introduce a variation of a Keno game with an abundance of locations (spots, reels, etc.). A player enters a wager via a “wagering input device” and “a selection input” is registered for selecting game element *locations* for gameplay. The player can select which locations, independent of wager amount, will be used for a gameplay condition to ultimately determine an outcome. At the outset -- and this is an important distinction -- the player *selects* locations for a gameplay condition independent of the player’s wager amount. After registering the selection of locations and the wager separately, the locations are played to reveal the game element indicia for the respective location.

Tarantino is a dice game and gaming system. The player of Tarantino attempts to obtain a predetermined combination of indicia, either in sequence or in linked or connected relationship. (col. 9, lns. 15-19). Although the Examiner cites Tarantino at col. 13, lns. 53-60 for the proposition that a player selects game element locations, in fact, this disclosure of Tarantino is for demonstrating indicia positions or arrangements, not how selections are made. Tarantino fails to disclose each and every element, *i.e.*, a “wagering input device” to register a wager independent from “registering a selection input” to select game element locations for gameplay, of the independent claims 25, 29, 39, 47 and 50 (and dependent claims thereon). Thus, these claims cannot be anticipated by Tarantino for this reason.

**(2.) Tarantino does not disclose “selection to less than all of said plurality of game element locations”**

There can be no anticipation by Tarantino because Tarantino also does not disclose a player selecting multiple *locations*, or “less than all of said plurality of game element locations”. Tarantino’s dice game has the number of indicia displayed dependent upon the size of the player’s bet. (col. 9, lns. 27-28). The Examiner references col. 9, lns. 41-61 and further col. 9,

Ins. 54-61 (Office Action, p. 4), regarding the selection of columns within a matrix based on the amount, or monetary value, of the players bet. Tarantino explains a first column is displayed based on a bet of a first amount, two additional columns (total of 3) are displayed based upon a second bet, two additional columns (total of 5) are displayed based on a third bet, two additional columns (total of 7) are displayed based on a fourth bet, and two additional columns (total of 9) are displayed based on a fifth bet.

The Examiner argues Tarantino teaches a player selecting multiple locations “because there are multiple element locations in each column” such that “even if a player selects the first column only he would have selected multiple locations.” (Office Action, pg. 5). Selecting *each* game element location of the present invention does not, however, equate to what the Examiner contends is selecting a column in Tarantino. Selecting a column in Tarantino does not provide the player with the opportunity to select individual game element locations within that column.

In another embodiment disclosed in Tarantino at col. 12, Ins. 52-64, a player places a first bet and then is entitled to select *one* single location to be displayed. (col. 12, Ins. 52-53). This embodiment of Tarantino therefore requires the player to place a bet for each subsequent selection of a single location, *i.e.*, a second bet to select a second single location. (col. 12, Ins. 61-63). Unlike the present invention, the selections of Tarantino are directly related to the amount of the player’s wager, and occur in seriatim gameplay.

As recognized by the Examiner at Office Action, pg. 4, the “larger the betting amount”, the “larger number of locations” a player is allowed to select. The player in Tarantino can “continue to place additional bets and make additional selections in an attempt to receive a winning outcome which results in a higher reward.” (col. 13, Ins. 2-5). In contrast, Applicants’ game is a variation of Keno in which the player places a wager *once and prior to* the selection of game element locations for gameplay. Once the player’s wager is placed, the player selects “less than all of said plurality of game element locations” to be played, unlike Tarantino’s selection of only one location. After the player selects the locations in Applicants’ invention, the locations are played to reveal the game element indicia for the group of player selected locations. After the indicia are revealed, a payout, if any is determined and the game is over. There is no seriatim placement of another wager for additional locations as disclosed in Tarantino. (col. 9, Ins. 41-61; col. 12, Ins. 52-53).

Tarantino fails to disclose limiting a “selection to less than all of said plurality of game element locations” for gameplay of the independent claims 25, 29, 39, 47 and 50 and dependent claims thereon. Thus, these claims cannot be anticipated by Tarantino for this further reason.

**(B.) Claims 25, 29, 39, 47 And 50 Should Be Allowed Because The Examiner’s Rejection Based Upon Anticipation By Simunek Is Erroneous By Failing To Provide All Of The Patentably Distinguishing Features Of The Invention**

The Examiner also rejected Claims 25-48 and 50-52 under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Simunek. The Examiner further rejected Claims 37-38 and 44-46 under 35 U.S.C. § 103(a) as unpatentable over Simunek in view of Tarantino.

**(1.) Simunek does not disclose “game element indicium to be displayed in each instance being randomly assigned for each said game element location”**

Simunek discloses a Keno-type gaming device where randomly selected spots on a punch board are compared to player selected spots to determine if there are any matches. (col. 3, lns. 50-54). A payout is determined on the number of matches between the player selected spots and the microprocessor’s randomly selected spots. (col. 1, lns. 15-25). The Examiner’s argument that “because the machine (of Simunek) randomly picks locations to spin, it is entirely possible that all 10 locations may be picked,” (Office Action, p. 5), has no relevance to Applicants’ invention because there is no random selection of locations in Applicants’ invention; the player selects the game element *spots or locations*.

Applicants do not employ randomly selected spots or locations, only randomly selected indicia at the player selected locations, to determine if there are any matches. One indicia from a set of indicium is randomly selected to be displayed *after* the player selects the game element spot or location to be played.

The embodiment of Simunek on which the Examiner relies (Office Action, pg. 5) is entirely different than Applicants’ invention. The player of Simunek selects up to 10 spots. (col. 3, lns. 46-47). The MPU selects 20 spots. (col. 3, lns. 47-49). If there are matches between the player selected spots and the machine selected spots, then some or all of the matched spots are changed to appear as reels and are spun. (col. 3, lns. 50-55). Applicants’ invention does not have player selected spots and *machine selected* spots that are matched to change into reels.



The Examiner's position that the machine's capability "of selecting randomly 'some or all' locations indicates the possibility of selecting 'all' spots by the machine" of which those locations turn into reel like locations displaying symbols, (Office Action, pp. 3, 5), is simply not germane to the claims. Moreover, the Examiner is incorrect in what "appears" to him as Applicants' invention. (Office Action, p. 5). Applicants' invention does not spin the "entire population of reels" after the player has selected locations. In Applicants' invention, the player selects "spots" (*i.e.*, locations), which are then spun to determine whether any will ultimately have winning (*e.g.*, matching) indicia.

Simunek cannot be morphed into something it is not, which the Examiner is trying to do. Simunek fails to disclose "game element indicium to be displayed in each instance being randomly assigned for each said game element location" of the independent claims 25, 29, 39, 47 and 50 and dependent claims thereon and these claims are not anticipated.

**(C.) Claims 25, 29, 39, 47 And 50 Should Be Allowed Because The Examiner's Rejection Based Upon Obviousness By Simunek In View Of Tarantino Is Erroneous, As There Is No Motivation Or Suggestion To Combine These References And They Cannot Be So Combined**

The Examiner perhaps believes that he has not used hindsight knowledge gleaned from the Appellants' disclosure, but he has plainly done so. *In re Kotzab*, 55 USPQ2d 1313, 1318 (Fed Cir. 2000) ("The Examiner and the Board fell into the hindsight trap."); *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999) (The Board fell into the hindsight trap by "combining prior art references without evidence of such a suggestion, teaching, or motivation and simply took the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight.")

Most evidently lacking is some motivation to one skilled in the art to combine a dice game (Tarantino) with a Keno-type game (Simunek). It can not realistically be asserted, as the Examiner does, that it would have been obvious to one skilled in the art to combine the dice game of Tarantino with the Keno-type game of Simunek. Why? Where is the requisite motivation? None is provided. It is well established that before a conclusion of obviousness may be made based on a combination of references, there must have been a reason, suggestion, or motivation to lead an inventor to combine those references. *ACS Hosp. Sys., Inc. v. Montefiore Hosp*, 732 F.2d 1572, 1577 (Fed. Cir. 1984). The relevant inquiry is whether there is

“a reason, suggestion, or motivation in the prior art ... that would have led one of ordinary skill in the art to combine the reference.” *Ruiz v. A.B. Chance Co.*, 234 F.3d 654, 664 (Fed. Cir. 2000).

There is no teaching or suggestion to combine Tarantino, a game disclosing a matrix of die elements whereupon a player attempts to achieve a predetermined combination of die indicia, with Simunek, a game disclosing locations matched between player selected locations and randomly selected locations that turn into a slot “reel” display for spin. This is highlighted by how far the Examiner has gone in trying to stretch Simunek to reach the invention (*e.g.*, random picks that “possibly” would result in “all 10 locations” being picked).

Tarantino actually teaches away from Simunek. The player of Tarantino attempts to obtain a predetermined combination of indicia, either in sequence or in linked relationship. This teaches away from Simunek since a player is trying to match indicia of player selected locations to random machine selected locations. Simunek quite simply would not work if a player had to match a sequence of indicia with a randomly selected sequence. The punch board of Simunek would have far too many possibilities of sequenced indicia for a player to select in order to try and match to a machine selected sequence of indicia.

Besides, Tarantino requires additional bets to make additional selections in an attempt to receive a predetermined sequence of winning indicia. Tarantino’s embodiment of additional bets for additional selections further teaches away from Simunek. If the player paid for multiple selections and matched a randomly selected spot in Simunek (Simunek discloses one wager), the game is not over. The spot turns into a reel, and in view of Tarantino, the player would have to make yet another bet to spin the reel in *attempt* to obtain a winning condition.

There is no suggestion or motivation to combine Tarantino with Simunek, and in fact, Tarantino and Simunek teach away from combining one another.

#### **(D.) Dependent Claims**

Dependent claims include all the limitations of the claims from which they depend. As explained above, Tarantino and Simunek, alone or in combination, do not disclose or render obvious each and every element of independent claims 25, 29, 39, 47, 50. Applicants respectfully requests reconsideration of the rejections and that the rejections of the claims should be withdrawn.

**(E.) Conclusion**

Applicants respectfully request reconsideration and that the Examiner's rejections be reversed, and claims 25-48 and 50-52 be allowed.

**(VIII.) CLAIMS APPENDIX**

1-24 (Withdrawn)

25. (Previously Presented) A game playing apparatus for a game of chance, comprising:

a game display;

an operating system for said game apparatus including a processor, said processor having a program effecting play of said game of chance, said program having at least one payout table and a random number generating subroutine, said operating system further including a memory;

an input device through which a player provides a control input to said game apparatus;

a wagering input device;

a payout device;

said operating system: driving said display to present a plurality of game element locations; registering a selection input by a player of game element locations, where said program limits said selection to less than all of said plurality of game element locations; registering a wager input by the player upon an outcome of said game of chance; determining a game element indicium from a set of gameplay indicia to be displayed in at least said selected game element locations for a gameplay condition, said game element indicium to be displayed in each instance being randomly assigned for each said game element location from the entirety of said set of game element indicia displaying said randomly determined indicium for each said selected game element location; determining an outcome of said game of chance based upon said gameplay condition; and providing a payout, if any, according to a winning condition being determined as established by said payout table.

26. (Original) The apparatus of Claim 25 wherein said gaming machine is a slot game, said plurality of game element locations are represented as reels having a plurality of stop positions with said set of game element indicia being represented on each said reel.

27. (Original) The apparatus of Claim 25 wherein said payable has an award of increasing value for said winning condition based upon an aggregate number of matching indicia in the gameplay condition.

28. (Original) The apparatus of Claim 27 wherein said payable further includes a hierarchy of values based upon the type of indicium, such that certain indicium yield a greater award for the same aggregate number of matches.

29. (Previously Presented) A Keno-type gaming machine, comprising:

a game display having a plurality of game element locations;

an operating system for said game apparatus including a processor, said processor having a program effecting play of said game of chance, said program having at least one payout table and a random number generating subroutine for selecting game elements from a set of game elements with differing indicia;

a memory;

an input mechanism through which a player provides a control input to said game apparatus and a wagering input;

a payout device;

said operating system: driving said display to present a plurality of game element locations; registering a selection input by a player of game element locations, where said program limits said selection to less than all of said plurality of game element locations; registering a wager input by the player upon an outcome of said game of chance; after registering said selection and said wager, then determining a game element indicium from a set of gameplay indicia to be displayed in at least said selected game element locations for a gameplay condition, said game element indicium to be displayed in each instance being randomly assigned for each said game element location from

the entirety of said set of game element indicia displaying said randomly determined indicium for each said selected game element location; determining an outcome of said game of chance based upon said gameplay condition; and providing a payout, if any, according to a winning condition being determined as established by said payout table.

30. (Original) The gaming machine of Claim 29 wherein said random assignment of game elements is drawn from all of said game elements of said set for each said selected game element location.

31. (Original) The gaming machine of Claim 29 wherein said payable includes a predetermined minimum number of matching game element indicia for a winning condition.

32. (Original) The gaming machine of Claim 29 wherein said set of game elements includes subsets of matching game elements, and wherein said random assignment of game elements involves only said set as a whole for a given gameplay.

33. (Original) The gaming machine of Claim 32 wherein said game display is a matrix of rows and columns defining said game element locations.

34. (Original) The gaming machine of Claim 33 wherein said random assignment of game elements is provided in the form of a spinning reel presentation for at least each said selected game element location, each said reel revealing a randomly assigned game element for a respective game element location in a reel-stop position.

35. (Original) The gaming machine of Claim 32 wherein said payable includes awards of increasing value for said winning condition based upon the aggregate number of matching indicia in the gameplay condition.

36. (Original) The gaming machine of Claim 35 wherein said payable further includes a hierarchy of values based upon the type of indicium, such that certain indicium yield a greater award for the same aggregate number of matches.

37. (Original) The gaming machine of Claim 33 wherein said random assignment of game elements occurs for all said game element locations for a gameplay condition, and said winning condition further includes predetermined spatial arrangements of indicia in said matrix.

38. (Original) The gaming machine of Claim 37 wherein said spatial arrangements include horizontal, vertical and diagonal lines.

39. (Previously Presented) A video gaming machine for playing a wagering game of chance, comprising:

- a video game display for presentation of a plurality of game element locations;

- an operating system for said game machine including a processor, said processor having a program effecting play of said game of chance, said program having at least one payout table and a random number generating subroutine for selecting game elements from a set of game elements with differing indicia; said operating system further including a memory;

- an input mechanism through which a player provides a control input to said game apparatus and a wagering input;

- a payout device;

- said operating system: driving said display to present a plurality of game element locations; registering a selection input by a player of game element locations, where said program limits said selection to less than all of said plurality of game element locations; registering a wager input by the player upon an outcome of said game of chance; after registering said selection and said wager, then determining a game element indicium from a set of gameplay indicia to be displayed in at least said selected game element locations for a gameplay condition, said game element indicium to be displayed in each instance being randomly assigned for each said game element location from the entirety of said set of game element indicia displaying said randomly determined indicium for each said selected game element location; determining an outcome of said game of chance based upon said gameplay condition; and

providing a payout, if any, according to a winning outcome being determined as established by said payout table.

40. (Original) The gaming machine of Claim 39 wherein said payable includes a predetermined minimum number of matching game element indicia for a winning outcome.

41. (Original) The gaming machine of Claim 40 wherein said payable includes an award that increases in value for said winning outcome based upon an increase in the aggregate number of matching indicia in the gameplay condition.

42. (Original) The gaming machine of Claim 41 wherein said payable further includes a hierarchy of values based upon the type of indicium, such that certain indicium yield a greater award for the same aggregate number of matches.

43. (Original) The gaming machine of Claim 42 wherein said random assignment of game elements is provided in the form of a spinning reel presentation for at least each said selected game element location, each said reel revealing a randomly assigned game element for a respective game element location in a reel-stop position, and all of said game elements of said set are available on each said reel.

44. (Original) The gaming machine of Claim 42 wherein said operating system includes a plurality of paytables, said paytables being of increasing values one payable to the next, a respective payable being applied to determine an outcome of the game according to the aggregate number of game element locations selected.

45. (Original) The gaming machine of Claim 44 wherein said wager is based upon the aggregate number of game element locations selected and a wagered amount per location.

46. (Original) The gaming machine of Claim 43 wherein said wager is based upon the aggregate number of reels selected and a wagered amount per reel.

47. (Previously Presented) A slot-type gaming machine using a spinning reel visual presentation, said reels being either mechanical or video, comprising:

a plurality of reels in a display, each of said reels having a plurality of game indicia with at least some of said indicia being different from each other;

an operating system for said machine;

an input mechanism through which a player provides a control input to said game apparatus and a wagering input;

a payout device;

said operating system: registering a selection input by a player of selected reels, where said selection is limited to less than all of said reels; registering a wager input by the player upon an outcome of said game; after registering said selection and said wager, then spinning at least said selected reels for a gameplay condition, said game element indicium to be displayed in each instance being randomly arrived at from a set of gameplay indicia for each said reel;

an outcome of said game of chance being determined based upon said gameplay condition, with a payout, if any, according to a winning outcome being determined as established by a payout table.

48. (Original) The gaming machine of Claim 47 wherein said outcome is predicated upon a predetermined associative methodology including matches of indicia, with a payout of an increasing value depending on the aggregate number of matching indicia of said selected reels in said gameplay condition.

49. (Withdrawn)

50. (Previously Presented) A gaming machine, comprising:

a display for displaying a game of chance, said game of chance being played with a plurality of game elements;

a wager input mechanism that registers a wager input by a player, said wager input including registration of an amount bet;

an operating system including a methodology for play of said game of chance, wherein each of said plurality of game elements has a plurality of stop positions with a set of game indicia thereon,



wherein the player selects a subset of one or more of said plurality of elements to determine an outcome of said game; a random selection mechanism randomly selects and displays in each instance a stop position from the entirety of said set of each of said plurality of elements on the display, said methodology determining an outcome of said game based upon combinations of said game indicia of said random stop position of said subset of one or more said plurality of elements and award winnings, if any, per a payable of winning combinations.

51. (Original) The gaming machine of Claim 50 wherein said gaming machine is a video gaming machine, said display is a video monitor, and said operating system includes a CPU with a program having said methodology as part of said program, said program further driving said display according to said program, said random selection mechanism comprises a random number generating routine.

52. (Original) The gaming machine of Claim 51 where said gaming machine is a slot machine and said game elements are reels.

**(IX.) EVIDENCE APPENDIX**

No evidence was submitted pursuant to §§1.130, 1.131, or 1.132 of this title or entered by the Examiner and relied upon by appellant.

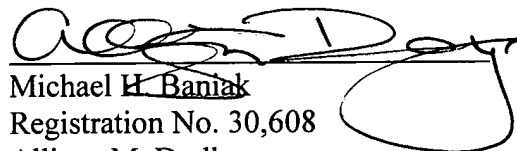
**(X.) RELATED PROCEEDINGS APPENDIX**

At this time, Applicants are not aware of any appeals and interferences that would relate to the present case such that there are no decisions rendered by a Court or the Board.

Respectfully submitted,

June 8, 2006

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A handwritten signature in black ink, appearing to read "Michael H. Baniak", written over a horizontal line.

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